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PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 August 1999, at 10 a.m.

Chairman: Mr. HATANO

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

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The meeting was called to order at 10.05 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1999/4, E/CN.4/Sub.2/1999/NGO/9 and 13)

1. Mr. KHALIFA said that, in the 1990s, the law of nations that had taken decades to establish had been giving way to the law of nature, the law of the strongest, in which the hierarchy was based on a country's weight in the free market. The war in Bosnia and its sequel in Kosovo had made the 1990s one of the worst decades in the century for human rights. When the North Atlantic Treaty Organization (NATO) had announced that it would intervene to avert a humanitarian catastrophe, he, like many others, had felt the need for a correct vocabulary and a better definition of the word "humanitarian" as human rights turned from a weapon of conflict to a weapon of intervention. However, the humanitarian imperative and commitment did not go below 15,000 feet or extend as far as Sierra Leone.

2. Bosnia and Kosovo had experienced massive evil and barbarism, with mass killings, torture, rape, arson, destruction and expulsion. Ethnic cleansing was merely a politically correct term for genocide, and the operation to purge and wipe out an entire people was probably designed to produce a "final solution" like the one designed by the Nazis for the Jewish people.

3. It was shocking that a war waged to avert a humanitarian catastrophe should have caused misery and destruction on such a scale. It was a war with a purpose that had to be won at all costs; nothing could stop its ferocious thrust. Disrespect for everything had become easy under the banner of a holy humanitarian crusade, and a new avenue of intervention had been inaugurated under the slogan of human rights: imposing peace through a low-risk high-technology war.

4. Intervention there had always been, but the "right of intervention" was a concept that needed to be explored in the light of the established standard of sovereignty and its misrepresentation as a permit to abuse people. NATO had decided to by-pass the Security Council of the United Nations in order not to hear the word "sovereignty" mentioned. That attitude was in no one's long-term interest, since the claim to speak on behalf of "the international community" could easily be made by anyone and everyone. Some feared that NATO might spin out of control and assume a global mission with world policing powers based on self-righteousness and military force. Such a development would undoubtedly weaken any solidarity of the West towards the South, and, in fact, the enormous cost of Kosovo would ultimately be borne by funds earmarked to help the less developed countries.

5. There was currently a near-monopoly of military power, but the time would come when the West's military superiority would no longer go unquestioned, a fact that should be taken seriously into account when establishing a new international system. While the case of Kosovo had stressed the wisdom of not daring to offend Big Brother, the stand-off at

Priština airport had shown that no one should ignore the clash of interests or the dangers of confrontation, especially between Powers possessing nuclear arsenals.

6. It remained to be seen whether the Kosovo adventure had been worth while and whether the Kosovars would ultimately win restitution, resettlement and permanent protection from the Power that had caused their plight, whether stability would be restored and preserved in the Balkans, and whether the intervention would check retaliation, ethnic violence and human hatred.

7. In the 1990s, the international order had assumed an altogether new appearance; since the intervention in Grenada, and especially since the Gulf war, human rights had been distinctly affected. In the face of outrageous, criminal, barbaric and immoral violations of human rights, international intervention seemed valid but, when a law or a system was trampled upon so forcefully, it was time to introduce new regulations based on the new facts. New laws had to replace broken ones; new systems had to replace those that had collapsed: the world had to find new totems to believe in which would command its obedience and respect.

8. Humanitarian interventions needed to be scrutinized, legalized and enacted in international law in such a way that unilateralist tendencies were excluded. Objective, dispassionate and unselective rules of engagement had to be formulated for the world was entering a fatal phase of lawlessness. Law needed to be behind every move. The next century would require a harmonization of the concept of sovereignty with the right or duty of intervention in defence of human rights.

9. Mr. PARK Sang-yong said he viewed the last 12 months with mixed feelings. There had been progress in the consolidation of the universality of human rights and the development of the necessary institutional machinery to advance its cause. The General Assembly had adopted a resolution aimed at protecting human rights defenders and the Commission had adopted a resolution affirming, among other things, that democracy fostered the full realization of all human rights, and vice versa.

10. There was, however, a darker side: the year had witnessed not only grave violations of human rights but also the spread of poverty, illiteracy and social exclusion in a number of countries. There had been truly alarming reports of racism, discrimination, abductions, bombings, murders, terror, massacres, religious clashes and ethnic conflicts, but of all the human rights situations of concern in the world none had been more visible or more grave than that of Kosovo.

11. The military operations having ceased, all the remaining Kosovar refugees must be allowed to return to their homes in safety and with renewed hopes for the future. The international community should continue to assist and facilitate their repatriation and make concerted efforts to ensure that there were no more revenge attacks or ethnic expulsions. The success of the operation would be judged, in part, by its success in ensuring the safety of all the inhabitants of the region.

12. The threshold of a new millennium offered an opportunity for reflection and for setting common goals and renewing a common will. The decision had to be taken that in the new era there would be no more genocide, no more ethnic conflict, no more killings and no more refugees.

13. It had to be recognized that international concern was at best only latent in several parts of the world. Asia had not received the attention it deserved, and Africa alone had more than 6 million refugees and displaced people who needed as much attention and assistance as the people of Kosovo. There were a number of conflict zones around the world which could become war zones or at least complex emergencies. While not all of them could be predicted, or prevented, it was the responsibility of the international community to develop and implement early warning systems and preventive measures at the national, regional and international levels. Conflict prevention rather than conflict amelioration was of prime importance and must be given the highest priority.

14. The human rights community should be bold in its aspirations and goals, while remaining critical of its successes. Much remained to be done. There was an impressive array of international human rights instruments, but they had first to be ratified and then implemented.

15. Mrs. WARZAZI, having thanked those who had expressed their condolences to her on the death of her country's monarch, said that progress towards the universalization of human rights seemed to have entered something of an impasse, a fact which had serious consequences for promoting the ideals of peace, justice, tolerance, coexistence and freedom. There had been a resurgence of violence of the most extreme kind. National, ethnic and religious extremism was claiming an increasing number of victims, and election statistics, especially in Europe, showed that xenophobic and racist extremism was on the increase with candidates being elected whose beliefs represented a serious threat to democracy.

16. The large number of armed conflicts in the world did not augur well for the next millennium. The use of force seemed to have become commonplace, and events of recent months were a cause of serious concern. In the case of Kosovo, it could not be said that the horrors to which the Kosovars had been subjected were unexpected. The Sub-Commission had adopted a number of resolutions calling on the international community and the countries concerned to take preventive measures in time. Far from preventing the catastrophe, the intervention, which had come much too late, had amounted to curing one evil with another evil. There had been massive human rights violations, and innocent people were still falling victim to reprisals.

17. For millions of people throughout the world, the expression human rights had no meaning. Everywhere, however, there was a thirst for justice, equality and satisfaction of the most basic needs, such as housing, a regular income, health, education and security. It was clearer than it had ever been before that democracy and human rights were intimately linked to development.

18. Considerable progress had undoubtedly been made in a large number of countries but, without the establishment of solid international cooperation and an international economic system with a human face, it would not be easy

to put an end to poverty and ignorance, which fed insecurity, extremism, violence and exploitation. The Sub-Commission had a very important role to play in increasing the awareness of States and encouraging them to assume their duties and obligations to the full. It was on the ground that action was most palpable, and that was why tribute should be paid to the non-governmental organizations (NGOs) and to all who sought to make human rights a reality; they should be encouraged to continue their work.

19. Mr. OLOKA-ONYANGO said that the most basic and fundamental of human rights was the right to peace, and it was deeply saddening that, more than half a century after the end of the Second World War, that right was becoming more and more elusive for ever-increasing numbers of human beings, particularly in Africa. In his home continent, it was becoming increasingly apparent that, when confronted with major human disasters there, the rest of the world chose silence. If the war currently rending the Democratic Republic of the Congo had occurred in any other part of the world, it would have been regarded as a world war in view of the number of countries and extent of territory involved. Similarly, the war between Ethiopia and Eritrea, exacting a massive toll of human lives on both sides, was simply regarded as one of sheer "senseless" inexplicability.

20. In a dozen countries of the continent (including his own country of Uganda) internal insurrections were daily maiming and destroying large numbers of people, but the international community seemed to have simply "given up on" them. When the reaction to those conflicts was contrasted with that to the situation in Kosovo, one could only say that it was the epitome of denial and neglect.

21. Such denial and neglect resulted in violations not only of civil and political rights but also of economic, social and cultural rights. The Democratic Republic of the Congo was probably the richest country in Africa, but it lacked the resources to meet the cost of an incessant war, and almost all the other countries engaged in the conflict there ranked in the lower quartile of human development as calculated by the United Nations Development Programme (UNDP). Their military expenditure was denying their citizens basic health services, education, and a decent standard of living.

22. It was an instructive fact that Africa's wars were largely fought with weapons from outside the continent. He had to admit that he had not given sufficient prominence to that consideration when, as a new member of the Sub-Commission, he had begun to prepare a working paper on globalization and racism. At that point in time he had not fully realized that racism was a living institution. It was currently responsible for a great deal of the denial and neglect experienced by people of colour, as, for example, when it was regarded as perfectly natural by a United Nations agency that Kosovo refugees should receive individual rations four times as great as those of their African counterparts in one of its Tanzanian camps. Another example was the number of deaths of people of colour (mainly Africans) at the hands of European immigration and police services, which, in the past year, had reached the highest number since the beginning of the 1990s. It was not enough simply to bring to book such direct violators of people's rights; ways of sanctioning those who provided assistance and comfort to such violators must be found. It was all very well for the United Kingdom House of Lords to deprive Pinochet of

his impunity once he had left office. Measures were needed against those actually perpetrating human rights violations while holding office, and also to bring to account those proffering impunity.

23. In Africa itself, he singled out the case of the Republic of Togo, which had maintained many of the trappings of single-party dictatorship. There too, in spite of frequent reports of serious human rights abuses, denial seemed once again to be turning into neglect - and with an external dimension, represented by the support for Togolese Government impunity provided by the Government of France.

24. Mr. BOSSUYT said that, although the oppression of the Albanian majority in Kosovo had been gaining strength since the abolition of its autonomy in 1989, 10 years had passed before there had been any effective international reaction. Finally, the members of NATO, faced by the refusal of the Serbian authorities to enter into a negotiated settlement with the majority population of the province, had taken the initiative of launching an aerial attack upon the Republic of Yugoslavia. That intervention raised many questions, the most important being its justification and appropriateness. As to the first, there was no doubt that, in view of the efforts made by the international community to achieve a negotiated solution, the intervention could hardly be judged either unjustified or precipitate. The international community had, if anything, waited too long. The break-up of the former Yugoslavia - largely due to the intransigence of the Serbian authorities - had led to successive armed conflicts between Serbia and Slovenia, Croatia, and Bosnia-Herzegovina before, as had long been foreseeable, they had extended to Kosovo. If the international community had taken earlier action to check Serbian policy, the loss of life and destruction of property would have been far less.

25. It would, of course, have been preferable to obtain explicit authorization from the Security Council but, in genuinely exceptional cases such as that of Kosovo, humanitarian intervention could be justified. The international community could not be forced to stand idly by while massive and flagrant violations of human rights were occurring before its eyes.

26. As to the appropriateness of the intervention, aerial bombing had, in fact, finally compelled the Serbian regime to withdraw its military forces from Kosovo - the forces and their accomplice militias which had been responsible for mass executions and many other grave violations of human rights. Nevertheless, it was an inescapable fact that the bombing, quite apart from such regrettable blunders as that affecting the Chinese Embassy, had resulted in considerable damage to the infrastructure of Serbia, and had failed to prevent continuing mass violations of human rights, which had, indeed, intensified during the period concerned.

27. Moreover, the bombing of command centres and infrastructure of the regime responsible for the human rights violations raised not only questions of the effectiveness of the intervention but also of its legality. The legal basis for humanitarian intervention was much more substantial when it immediately stopped the perpetration of human rights violations. On the one hand, the halting by international reaction of a policy of systematic ethnic cleansing marked a considerable advance upon the international inertia that had prevailed during the genocide of the Tutsis in Rwanda. On the other hand,

a comparison between the attention given by the international community to the events in Kosovo and the genocide in Rwanda, and more recently in Sierra Leone, conjured up a daunting picture of deep-seated racial discrimination, which had been rightly denounced by the High Commissioners for Human Rights and for Refugees.

28. Turning to the situation in the Great Lakes region of Central Africa, he said he wished to refer in particular to the case of Burundi, where the expected large-scale genocide had, happily, not occurred in spite of the disastrous economic situation aggravated by an illegal embargo imposed by neighbouring countries and the lack of significant international assistance. The slow but real progress of the peace process within the country had not, fortunately, been checked by the stumbling block of Arusha, thanks to "the balance of fear" - of the majority because of its numbers and of the minority because of its armed strength. His assessment of the 1972 events in Burundi and the 1994 events in Rwanda was that such fear was real and could be salutary, and that, as far as Burundi was concerned, reform of the army should be the outcome of mutual confidence rather than its point of departure. The time had come for a critical evaluation of regional mediation in Burundi, and it was deeply regrettable that Mr. Pinheiro had been prevented from completing his very promising mission to that country.

29. In Indonesia, everything possible should be done to ensure that the referendum on the question of the self-determination of East Timor was carried out in satisfactory conditions. The agreements between the Governments of Indonesia and Portugal, under United Nations auspices, in that regard were very welcome. Ethnic relations in some other parts of Indonesia were, however, a particularly grave matter for concern. The Indonesian Government must remain cool and handle the situation skilfully, since it was fraught with considerable danger.

30. Mrs. DAES said that the international community could not remain indifferent to gross and systematic violations of human rights and fundamental freedoms, the promotion and protection of which were the primary responsibility of States. The greatest threats to those rights were war and armed conflict, the latter of which, occurring within States, accounted for the greatest number of civilian victims, including the most vulnerable and the most innocent - women, children, the elderly, the sick, indigenous minorities and refugees. Such had been the outcome of the conflict in Kosovo. The bombing campaign undertaken by NATO which had led, as the High Commissioner for Human Rights had stated in her report to the Commission, to the killing of large numbers of civilians and the destruction of civilian installations judged by NATO to be of possible military application, underlined the necessity of adhering to the principle of proportionality in carrying out such a campaign.

31. Another internal armed conflict, the cost of which was also borne by innocent civilians, was the ongoing civil war in Colombia. It had also cost the lives of 27 human rights defenders, 5 of them in the current year, including the tragically murdered Ingrid Washiwatok, a great defender of the rights of indigenous peoples.

32. A particular issue to which she wished to refer was the institution of embargo, which affected primarily the health, welfare and very life of vulnerable groups in the country upon which the embargo was imposed. She believed that it was a measure that should not be imposed by either the Security Council or individual States. On the fiftieth anniversary of the 1949 Geneva Conventions, the fundamental principles and values of those Conventions should be once again highlighted: compassion for those in distress, and respect for human dignity and solidarity.

33. Among the countries where human rights violations gave particular grounds for concern were: Indonesia, where arbitrary arrest, and the torture and inhumane treatment, particularly of the indigenous peoples of East Timor were rife. One could only hope that the agreements signed between Indonesia, Portugal and the representatives of East Timor would be implemented for the benefit of all the peoples concerned. Mexico was another country where indigenous peoples had turned to the international community for help. She had, in 1998, supported the Mexican Government's strategy to recognize and protect the basic human rights of those peoples but had been grievously disappointed by the failure to implement it.

34. Turkey was also a country where grave and systematic violations of human rights were confirmed by all the reports received, including that of the Special Rapporteur on torture. In June 1999, Turkey had been condemned by the European Court of Human Rights in no less than 15 judgements for assassinations, torture and illegal and arbitrary arrests. A particularly striking case had been that of a Cypriot woman from the occupied territory of Cyprus who had been denied the right of peaceful enjoyment of her possessions to which she was entitled under the European Convention on Human Rights. The persistent refusal by the Turkish Government to respect the ruling in her favour was of great significance because of its applicability to other peoples in similar situations, and particularly to refugees.

35. Mr. WEISSBRODT said that the Commission's increasing reluctance to handle country situations justified action by the Sub-Commission, which should be able to apply its human rights concerns to particular contexts. He would, consequently, focus on country situations that the Commission had failed to address.

36. The United States had been indirectly criticized by the Commission for its use of the death penalty and its unilateral sanctions against Cuba. It was also open to criticism regarding discrimination based on race, sex and sexual orientation as well as for the suffering of its indigenous communities. Other powerful nations had also escaped significant criticism by the Commission. Despite awareness of the suppression of the Tibetan community and its spiritual leaders, the Commission had failed for many years to take appropriate action. Despite China's great power and influence, he wished to break the silence by encouraging a more open dialogue within the United Nations on the human rights situation in Tibet.

37. The Sub-Commission had remained silent on the situation in Jammu and Kashmir, perhaps because India and Pakistan were highly influential countries. There was no question, however, that serious human rights abuses had taken place there, including arbitrary arrests, torture, rape and extrajudicial

executions perpetrated by state police, armed insurgents and paramilitary forces enjoying foreign assistance. According to the official statistics, almost 20,000 people had died in Jammu and Kashmir since January 1990; other sources quoted figures of between 40,000 and 50,000. Continued silence on the issue might be construed as indifference.

38. He commended Bahrain on its cooperation with the Sub-Commission and the positive steps it had taken to improve its human rights situation. Although there was evidence of continued killings and repression of human rights organizations in Algeria, the new Government seemed bent on improving the situation. Despite the Sub-Commission's efforts to encourage negotiations between the Governments of Bhutan and Nepal, a constructive dialogue had not been achieved and there had been no progress with regard to the return of the refugees expelled from Bhutan ten years previously. The situation in Colombia had, if anything, deteriorated, with new and more visible kidnappings by armed opposition groups in recent months. Peru was taking the unfortunate step of withdrawing from participation in the Inter-American Court of Human Rights. The Sub-Commission should express concern about any such moves to renege on international human rights obligations.

39. In Turkey, freedom of expression continued to be violated. Thousands of internally displaced persons had been unable to return home and the European Court of Human Rights had adopted more than a dozen decisions about violations of the human rights of the Kurdish minority. However, the use of torture seemed to be less widespread and the Turkish Government had cooperated with the United Nations thematic procedures.

40. There had been some positive developments in Indonesia since the violent events of May 1998. The first free elections in 45 years were expected to result in a new Government. In June 1998, the Government had published a five-year National Action Plan on Human Rights. Since then, it had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of Racial Discrimination and Convention No. 87 of the International Labour Organization (ILO) concerning Freedom of Association and Protection of the Right to Organize.

41. However, persistent patterns of violation still persisted. Ethnic minorities and individuals of Chinese descent had been the target of killings and systematic rape. In January 1999, fighting had occurred between Christians and Muslims in Ambon. The city centre and other neighbourhoods of Ambon and neighbouring islands had been burnt to the ground. As a result, some 30,000 people had been displaced and dozens had lost their lives. He urged the Sub-Commission, therefore, to address the human rights situation in Indonesia.

42. Togo was another country that the Sub-Commission would do well to consider. Hundreds of extrajudicial executions and other human rights violations, such as torture and disappearances, had been left uninvestigated and unpunished by the Togolese authorities and there was evidence that the security forces had themselves attacked civilians. During the elections of June 1998 and March 1999, there had allegedly been hundreds of extrajudicial executions. Dozens of civilians, including opposition activists, had reportedly been arrested and tortured. Nobody had been brought to justice for

those crimes. Human rights defenders were particularly vulnerable and members of organizations such as Amnesty International had been arrested and tortured by the security forces.

43. Despite some positive developments, the situation in Belarus remained substantially unchanged. Human rights defenders, members of the opposition and journalists still suffered repression. On 30 June 1999, the House of Representatives of the Belarusian National Assembly had legislated to restrict the activities of political parties, trade unions and NGOs. Under the Code of Criminal Procedure, protestors could be placed under administrative arrest for up to ten days without being formally charged. On the other hand, President Lukashenko had recently announced that his Government was ready for a dialogue concerning the further development of democracy. It was thus a critical moment, when the Sub-Commission should encourage the Government of Belarus to protect human rights.

44. He welcomed the announcement by the Government of the Democratic People's Republic of Korea of its intention to become a party to the Convention on the Elimination of All Forms of Discrimination against Women and to submit the country's second periodic report to the Human Rights Committee, which he took as an affirmation of its current and continuing obligations under the International Covenant on Civil and Political Rights. There was no evidence, however, that human rights violations had significantly decreased in that country and he was disturbed by new information about the abduction of women and girls for sexual trafficking. He encouraged the authorities to invite the High Commissioner for Human Rights to visit the country and to cooperate with the Human Rights Committee, the Sub-Commission and other human rights bodies. The Sub-Commission should continue to review the human rights situation in the Democratic People's Republic of Korea.

45. He suggested that the Sub-Commission might consider adopting resolutions on thematic issues in which countries were mentioned by way of example, thereby combining thematic and country-specific concerns. It should focus on conflict situations and on new areas of human rights concern such as the relationship between human rights and the activities of transnational businesses.

46. Mr. EIDE said he wondered why there had been so few statements by NGOs concerning sub-Saharan Africa. It was possible that civil society was weak in that continent because poverty prevented the establishment of effective NGOs.

47. There had been many submissions concerning Mexico, particularly with regard to the treatment of indigenous peoples. He hoped that the legacy of dispossession could be overcome through a process of change, based on ILO Convention No. 169. In Australia, the High Court had denounced the doctrine of terra nullius in the case of Mabo v. Queensland but the Government seemed reluctant to draw the appropriate conclusions and recognize the rights of the indigenous peoples.

48. In Kosovo, the ethnic Albanians had been deprived of their autonomy and educational institutions. The Kurdish people in Turkey had also long been deprived of the right to develop their identity and language, let alone their own institutions. The only solution was a fundamental change of policy in

line with modern thinking on group accommodation and minority rights. The use of force, whether by Governments, minority groups or the international community, was rarely a sound option.

49. He had considerable doubts about the legality and appropriateness of military action such as that undertaken by NATO in Kosovo. The international community had acted too slowly in the case of Srebrenica, when intervention had been requested by a sovereign State. On that occasion, he had supported targeted action to destroy the forces planning the massacre. The Kosovo situation was different in terms of both the absence of a request by the Government and the lack of authorization by the Security Council. Moreover, most of the ethnic cleansing had taken place after the bombing had begun. It was essential therefore to give careful consideration to the kind of situation that called for such a military response and to establish who had the authority to give the go-ahead.

50. In the first decades after independence, the Government of Sri Lanka had pursued a hegemonic policy vis-à-vis the minority Tamils. In response to that violation of minority rights, one Tamil group, the Liberation Tigers of Tamil Eelam (LTTE), had developed into a hard-line terrorist group unable to contemplate peace. It refused to respond to the Government policy of devolution and the main architect of the devolution package, Neelan Tiruchelvam, had been brutally murdered. He urged the Government to press ahead nonetheless with devolution, thus honouring the memory of Dr. Tiruchelvam and setting an example for other countries to follow.

51. The former Indonesian Government had relied heavily on so-called security forces which terrorized many of the local peoples in the archipelago. The country was currently in transition to democracy, pluralism and decentralization, but the Government had not yet moved against the repressive security forces and their paramilitary supporters. Serious abuses had occurred in connection with the forthcoming referendum in East Timor and also in many other parts of the country.

52. The Jammu and Kashmir problem persisted. There was a need for policies that gave the local population greater control over their lives, allowed the dispossessed to return to their homes and guaranteed human rights and religious freedoms for all. Moderation on the part of local religious fanatics and external forces was a prerequisite for any improvement in the situation.

53. The substantive content of China's policy of autonomy for its ethnic minorities, in Tibet and elsewhere, would have to change. Genuine and democratic decentralization could reduce current tensions.

54. Religious intolerance and fundamentalism fuelled by long-standing grievances could be overcome by a sensible government policy. In that connection, he welcomed the steps taken by the Government of Algeria to promote social and political inclusion. In the Islamic Republic of Iran, on the other hand, the violent repression of the student movement by the religious authorities demonstrated the difficulties involved in moving towards an open and pluralist society based on human rights for all.

55. The Taliban in Afghanistan were the ultimate symbol of religious fanaticism. He hoped that they would not receive support from Pakistan or any other country. He further hoped that Pakistan itself would reverse the upsurge of religious fundamentalism, scrap its blasphemy laws and consolidate the foundations for the universal enjoyment of human rights.

56. One of the structural obstacles to the exercise of human rights was the increasing inequality of control over resources, both within and between States. As the skewed globalization process tended to exacerbate inequalities, the Sub-Commission must study the impact of trade, finance, investment and the global market on human rights.

57. The United Nations and bodies such as the Sub-Commission could help societies to heal their wounds, develop impartial and pluralist legislation and prevent warmongers, militant nationalists and religious fanatics from controlling the instruments of law and order. In that context, he deeply deplored the financial starvation of the United Nations by Member States that failed to pay their assessed contributions. The international community was thus being deprived of a representative body and a few powerful States were able to impose their priorities. It was essential to preserve and develop the United Nations and to ensure that unilateralism was subordinated to the common concerns of humankind.

58. Ms. HAMPSON said that, since the Sub-Commission's fiftieth session, Bahrain had released many detainees, allowed some nationals living in exile to return and accepted a visit by Amnesty International. The Government had entered into detailed discussions with the Office of the High Commissioner for Human Rights (OHCHR), had withdrawn its reservation to article 20 of the Convention against Torture and had agreed to a visit by the Working Group on Arbitrary Detention. She hoped that the example of Bahrain would encourage other States in the region to do likewise.

59. The fiftieth anniversary of the 1949 Geneva Conventions was imminent. The law of armed conflict regulated the conduct of hostilities in order to protect non-combatants and the victims of war. The underlying ethical principle required a strategy and choice of targets related to the goals of the conflict. A population that was allegedly subject to ethnic cleansing, arbitrary killings and widespread rape could not be protected solely by aerial attacks, the possibility of using ground forces having been ruled out.

60. Almost all the members of the United Nations General Assembly had adopted resolution ES-10/6 on 8 February 1999 calling for the convening of a meeting of the High Contracting Parties to the Geneva Conventions to consider enforcement measures to ensure that Israel respected its obligations under the Fourth Geneva Convention in the territories occupied since 1967. On 15 July 1999, the High Contracting Parties had thus met for a period of ten minutes and had not even set a date for a substantive discussion and decisions on enforcement measures. It was difficult to comprehend why they had voted for the resolution if they had had no intention of taking effective action.

61. The reaction of the international community to conflict situations and serious human rights violations was characterized by a selectivity amounting

to discrimination. The life of an ethnic Albanian in Kosovo was apparently worth more than the life of a Somali or an Angolan. She disagreed with the argument that States could not take action, including military action, to respond to massive human rights violations in another State. States were not free to commit genocide against part of their population and call it the exercise of State sovereignty. The international community seemed to have recognized the inadmissibility of its failure to intervene in Rwanda. The endorsement of the Security Council for such action was, of course, preferable, but so long as the response of members of the Security Council, particularly those with veto powers, was a product of old alliances and petty political considerations, Council endorsement could not be a prerequisite for the lawfulness of an operation.

62. In response to the assertion that no small States had engaged in humanitarian intervention, she noted that the United Republic of Tanzania had intervened in Uganda, inter alia to remove Idi Amin from power, and that the international community had welcomed the result. She stressed, however, that States could intervene in the affairs of other States only as a last resort when massive human rights violations warranted the use of armed force. She agreed that some form of regulation of humanitarian intervention was needed. The Secretary-General might consider establishing a group of experts in international law to draft appropriate guidelines.

63. In Jammu and Kashmir, the effect on the civilian population of the conflict pitting the Indian army against foreign-assisted forces had been devastating. In Turkey, between 2 and 3 million people, mainly of Kurdish origin, had been displaced. Turkey had been found responsible by the European Court of Human Rights for torture, failing to protect the right to life by indiscriminate targeting, enforced disappearances and the deliberate destruction of people's homes, leaving them destitute and forcing them to flee. Mexico was in the process of destroying the space needed for dialogue through its militarization of the situation. Many former military personnel had joined the police forces. That phenomenon was not confined to the State of Chiapas. According to the United Nations Children's Fund (UNICEF), Angola was the most dangerous country in the world for a child to be born into. In Sierra Leone, acts of barbarity with no military justification had become a matter of routine. The ceasefire would not restore severed arms and hands.

64. Addressing the parties involved in all such conflicts, she said that the threshold of the new millennium was a time for making the extra effort needed to create the space for political dialogue and for recognizing the legitimacy of peaceful disagreement.

65. The Sub-Commission had been asked to focus its attention on the implementation of norms and, as a denial of accountability, impunity was a failure of implementation. The primary obligation to ensure the protection of human rights lay with the State, which must carry out effective investigations into illegal killings, alleged disappearances and ill-treatment, and must provide an effective national remedy. Yet each of the situations to which she had referred was characterized by near-total impunity. Thus, to cite just two examples, in the two cases of Kaya v. Turkey and Kilic v. Turkey, the European Commission of Human Rights had repeatedly found that public prosecutors had failed to investigate complaints that members of the security

forces had acted unlawfully; and had consistently observed a readiness on the part of the authorities to place the blame for unlawful acts on terrorists, even where there was no substantiated evidence of their involvement. That was a description of impunity.

66. While the Sub-Commission had to address the practical implementation of States' human rights obligations, its responsibility in that regard was secondary. If States wished to avoid condemnation by regional and international human rights mechanisms, they must themselves provide effective national redress. There was no scope for blanket amnesties where serious violations of the laws and customs of war and gross and systematic violations of human rights were concerned. Implementation of human rights required an end to impunity. And if the Sub-Commission was to play its part in ending impunity, there would some day have to be a discussion of the situation in Tibet.

67. Mr. DIAZ URIBE said that, with the end of the cold war and in the throes of globalization, some nations had decided to turn their backs on the international treaties and covenants to which they were parties, invoking "national security" or "national interest" in support of their positions. Each State was taking its own decisions as to how it could or must interpret its obligations and commitments. According to that scenario, in which certain countries or groups of nations took unilateral and drastic decisions, it seemed that the international machinery for the protection and defence of human rights, so recently and so laboriously constructed, had been cast aside.

68. There was good reason to fear that, in a context of globalization, the regional and international bodies responsible for the protection of human rights were losing their capacity for action. Thus, in his own region, the Peruvian Congress had "withdrawn" its recognition of the jurisdiction of the Inter-American Court of Human Rights in cases alleging violations of the human rights of individuals where domestic remedies had been exhausted. That so-called "withdrawal" was in reality a partial denunciation of the American Convention on Human Rights, a measure not provided for in that treaty and thus null and void.

69. Similarly, the conflict in Colombia was worsening daily, in total disregard for the rules of international humanitarian law. All the signs indicated that, as he had predicted at the Sub-Commission's previous session, foreign military intervention in Colombia was imminent. Only the previous day, General Barry McCaffrey, President Clinton's "Drugs Czar", had called for a high-level summit to review the situation in that country, which he had described as a "national emergency". Any foreign military intervention would exacerbate an already difficult human rights situation, and would also reduce the likelihood of a consolidation of Colombia's democratic institutions. Faced with that challenge, the way forward for Colombia was to build a more constructive and solid relationship with international bodies such as OHCHR, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC).

70. Mr. KARTASHKIN said that, while it was possible to point to some achievements in the sphere of human rights over the past year, massive violations nevertheless persisted. The Charter of the United Nations was

flagrantly violated, armed force was employed in international relations, and the Security Council was ignored. Such a state of affairs was inevitable if a single Power imposed its own solutions to problems, including human rights problems, on the international community. In a community of States, each with its own historical, economic, political and cultural characteristics, positions naturally differed. Consequently, the United Nations was the only forum in which the interests of all States could be reconciled and solutions found to the complex problems facing the international community. If one State or group of States was allowed to circumvent the Charter and the Security Council and resort to armed force at its own discretion, chaos and anarchy would ensue. Force was currently being used in Kosovo; in the future, it could be used against any State whose policies conflicted with those of a self-appointed world leader or of a military bloc.

71. He was not opposed to humanitarian intervention, and had indeed more than once advocated it, as human rights were not a purely internal matter for States. But humanitarian intervention must not result in the deaths of innocent people and massive and flagrant violations of human rights. All States must abide by the Charter and the basic human rights conventions. That was the only way to achieve peace on the eve of the twenty-first century.

72. The celebration of the fiftieth anniversary of the Universal Declaration of Human Rights had shown that States must redouble their efforts to ensure full implementation of all its provisions. Thus, in January 1999, the Secretary-General and the High Commissioner for Human Rights had rightly appealed to all States to sign and ratify, within five years, the two International Covenants on Human Rights and the four basic human rights conventions. Almost 40 States Members of the United Nations were still not parties to those instruments. The Sub-Commission could and should encourage such States to ratify those instruments, so that they could be brought within the control of the United Nations treaty monitoring system.

73. The Sub-Commission must direct its efforts towards eliminating the massive, flagrant and systematic violations of human rights that persisted throughout the world. However, it must also continue its efforts to examine individual cases under the 1503 procedure. If it was to achieve those tasks, its members must show objectivity in their work. He had been surprised to hear one colleague deliver an analysis of human rights situations in many parts of the world, with no reference whatever to the situation in Yugoslavia and in Kosovo. The Sub-Commission must depoliticize its consideration of human rights questions, and must refrain from taking sides in ideological conflicts. It should seek to draw States into dialogue, and provide them with all possible assistance to enable them to improve their human rights situation. The Sub-Commission must be a truly expert body, guided exclusively by its expertise and free from political bias.

74. The CHAIRMAN said that, as Mr. Fan Guoxiang had not used the full speaking time allocated to him under agenda item 2, he proposed to give the floor to Mr. Fan's alternate, Mr. Zhong Shukong, to make a ten-minute statement under that agenda item.

75. Mr. JOINET, supported by Mr. ALFONSO MARTINEZ, speaking, on a point of order, said he could accept the Chairman's proposal only if it were made clear that Mr. Zhong Shukong was being given the floor on a purely exceptional basis.

76. Mr. BOSSUYT said that an important question of principle was involved. If an alternate was authorized to speak on an agenda item already addressed by the member, a dangerous precedent would be established.

77. Mr. KARTASHKIN said that, in a spirit of compromise, Mr. Zhong Shukong should be permitted to speak in the few minutes still available.

78. Mrs. WARZAZI said that she was strongly opposed to permitting an alternate to speak when the member concerned had already spoken on the same agenda item. The matter should be taken up under agenda item 1 (c) at the Sub-Commission's next meeting on that topic.

79. The CHAIRMAN ruled that Mr. Zhong Shukong should be given the floor to speak for five minutes.

80. Mr. ZHONG Shukong said that, as a full text of his original statement would be circulated to members, he would summarize it briefly. It must objectively be acknowledged that an appalling humanitarian disaster had occurred. A small sovereign State had been bombed for 78 days and nights under the pretext of humanitarian intervention. The result had been massive suffering inflicted on innocent people of various ethnic backgrounds. In addition to the thousands of dead and injured, about 1 million were homeless, more than 500,000 jobless, and one-fifth of the nation's total population left without income. The nation's infrastructure had been severely damaged, and a long-term environmental disaster precipitated. A former prosecutor at the Nuremberg Tribunal had categorized those acts as a war crime.

81. Unexploded cluster bombs and depleted uranium munitions constituted further long-term threats to the population in Yugoslavia and across the Balkans. As well as violating the provisions of the United Nations Charter and of international law, the military intervention had served to worsen the ethnic conflicts in the area, precipitating further feuding and looting. That analysis deserved the attention of the independent experts of the Sub-Commission, if that body was to fulfil its role of protecting human rights in good faith on the eve of the third millennium.

The meeting rose at 1.05 p.m.